

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

FILED

JUL 10 1997

MAY SHABOON,) CLERK, U.S. DISTRICT COURT
) WESTERN DISTRICT OF TEXAS
 Plaintiff,) BY SL DEPUTY CLERK
)
 VS.) CIVIL ACTION NO. SA-94-CA-0697
)
 CHARLES A. DUNCAN, M.D., ET AL., .)
)
 Defendants.)

ORDER DENYING MOTION FOR SEVERANCE

On this date the Court examined the Plaintiff's Motion for Severance and Entry of Judgment, filed June 6, 1997. Although no objection to the motion has been filed, after careful consideration, the Court finds that the motion should be denied.

On May 27, 1997, the Court dismissed all of Plaintiff's claims against the federal Defendants in this case and denied Plaintiff's motion for leave to file a third amended complaint as presented to the Court. At that same time, the Court ordered Plaintiff to amend her pleadings to conform to the Court's rulings.

Plaintiff suggests that if she complies with the Court's directive to amend, she may risk waiving appeal as to those causes of action that the Court has found should be dismissed as a matter of law. Plaintiff is incorrect.

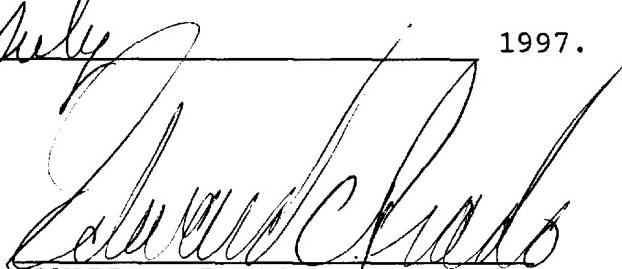
The Court has already dismissed the claims in question. If Plaintiff amends to reflect the Court's ruling, Plaintiff will not have dropped those claims voluntarily but by order of the Court. Compliance with the Court's order will not waive any of Plaintiff's right to appeal the Court's decision. Such an order is not final but is subject to appeal at the conclusion of the case.

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The Court finds no reason to sever the claims against the federal Defendants at this time. Plaintiff shall amend in accordance with the Court's order and may appeal that order at the conclusion of this suit.

Accordingly, it is hereby ORDERED that Plaintiff's Motion for Severance and Entry of Judgment is DENIED.

SIGNED this 9th day of July, 1997.



EDWARD C. PRADO
UNITED STATES DISTRICT JUDGE